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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 11th July, 2025***

+ **CM(M) 1198/2025 & CM APPL. 40445-40446/2025**

SUNITA CHAKRAVARTY

.....Petitioner

Through: Mr. Medhanshu Tripathi with Mr.
Tushar Tokas and Ms. Arbinder Kaur,
Advocates.

versus

SHARUL MATHUR (SR. CTZN.)

.....Respondent

Through: Mr. Harshit Goel, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The petitioner is defending a suit for possession, injunction and mesne profits.
2. When the matter was taken up by the learned Trial Court on 13.08.2024 keeping in mind the specific admission made by the defendant in her written statement, wherein she admitted that the monthly rate of rent was Rs. 31,000/- and that it had not been paid by her since January 2021, the learned Trial Court directed her to deposit arrears of rent at the abovesaid rate, within a period of two months.
3. Since the defendant (petitioner herein) was also claiming that she was inducted as tenant by late Mrs. Vimla Mathur and there was no proof that the



plaintiff was her legal heir, the learned Trial Court, to protect her interest, also directed her to deposit such amount by way of FDR in the name of the Court. There was also a direction to her to deposit rent at the abovesaid rate, in the Court, for the future months also.

4. Admittedly, the abovesaid order was not complied with and, therefore, when the matter was again taken up by the learned Trial court on 13.01.2025, the learned Trial Court struck off the defense of defendant.

5. Such order is under challenge.

6. When asked, learned counsel for petitioner submitted that the petitioner has been, merely, able to arrange amount of Rs. 2,50,000/- and wanted to pray for some additional time, as arrears are huge and she has no means to arrange the same.

7. Fact, however, remains that point raised in the present petition is altogether different.

8. The sole grievance of the petitioner herein is to the effect that the Court though could have struck off the defense for non-compliance of the order in question, but not without issuing a *show-cause notice*

9. He submits that the order has been passed under Order XXXIX Rule 10 CPC but at the same time, the specific mandatory provision contained under Order XV-A CPC should also have been adhered to and, therefore, before striking off the defense, a *show-cause notice* should have been issued.

10. The time was, though, granted to her to deposit the amount in question but there is no specific *show-cause notice* as such.

11. This Court, though, wonder as to what difference would have it made had there been a *show-cause notice* also, as during course of the arguments, it has been clearly stated by the learned counsel for petitioner that the petitioner



has no means to arrange such huge arrears, keeping in mind the fact that the extreme step of striking off the defense has been resorted to, without issuing a *show-cause notice*, the order dated 13.01.2025, so far it relates to striking off the defense, is set aside.

12. The matter is now fixed before the learned Trial Court on 15.07.2025 and the learned Trial Court would issue *show-cause notice* to the petitioner as to why her defence may not be struck off on account of non-compliance of said order. After such *show-cause notice* and considering the response, if any, of the petitioner herein, the learned Trial Court would be at liberty to pass further appropriate orders, in accordance with law.

13. However, at the same time, as undertaken today, the petitioner would deposit a sum of Rs. 2,50,000/- before the learned Trial Court on the date fixed i.e. 15.07.2025.

14. Petition stands disposed of in aforesaid terms.

15. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 11, 2025/sw/JS